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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,546	04/23/2001	Tadamasa Kitsukawa	50P4369	3930

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John L. Rogitz  
Rogitz & Associates  
750 B Street, Suite 3120  
San Diego, CA 92101

EXAMINER

SRIVASTAVA, VIVEK

ART UNIT PAPER NUMBER

2617

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/840,546	<b>Applicant(s)</b> KITSUKAWA ET AL.	
	<b>Examiner</b> Vivek Srivastava	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 – 33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 33 of copending Application No. 09/840,327. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to modify the claims of copending application 09/840,327 to get the claims in the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Claims 1 – 33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 40 of copending Application No. 09/839,482. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to modify the claims of copending application 09/840,327 to get the claims in the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 – 33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 27 of copending Application No. 09/839,630. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to modify the claims of 09/839,630 to get the claims in the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2, 5 – 11, 14 – 24 and 28 – 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Klosterman et al (US 6,469,753).**

**Regarding claims 1, 2, 11 and 20,** Klosterman discloses a electronic program guide for use in conjunction with an interactive television (fig 6b, col 4 lines 24 – 62). The EPG panel in Klosterman includes at least one television channel listing, at least one Web site channel listing 640 (fig 6b) with the information panel displaying information relevant to a channel on the program guide. Klosterman further discloses the television channel information is received from distribution center 110 or provider 140 (see fig 1) and that internet information is provided from a link on the Internet inherently connecting to an ISP (col 4 lines 63 – 67). Klosterman further inherently discloses a interactive television server (i.e. a server which generates and distributes the EPG) and signal source i.e. distribution center 110 or provider 140

**Regarding claims 5, 6, 14 and 15,** Matthews discloses a virtual channel indicator associated with a Web site listing and opening communications with a Web site listing by selecting the virtual channel indicator (see col 9 lines 19 – 53).

**Regarding claims 7 – 10 and 16 – 19,** Matthews discloses an EPG comprising an information panel, the information panel displaying information relevant to a channel on the program guide, wherein the electronic program guide includes content from at least one Web server, wherein the EPG further includes content from at least one television signal source, wherein the EPG further includes content from at least on

interactive television system server (see fig 6b, col 4 lines 48 – 67) and that internet information is provided from a link on the Internet inherently connecting to an ISP (col 4 lines 63 – 67). Klosterman further inherently discloses a interactive television server (i.e. a server which generates and distributes the EPG) and signal source i.e. distribution center 110 or provider 140).

**Regarding claim 21**, Klosterman discloses a user can scroll between the TV channel and Web site listing (fig 6b).

**Regarding claim 22**, Klosterman discloses enabling a consumer to open communications with at least one Web site by selecting the at least one Web site listing (col 9 lines 19 – 53).

**Regarding claim 23**, Klosterman discloses an information region 220 which displays information relevant to a channel listing (see fig 2a).

**Regarding claim 24**, Klosterman discloses wherein the electronic program guide includes at least one television channel listing and at least one Web site channel listing (see fig 6b).

**Claims 28 – 33** are met by that discussed above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3 – 4, 12 – 13 and 25 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman et al (US 6,469,753).**

**Regarding claims 3 – 4, 12 – 13 and 25 – 27,** Klosterman fails to disclose the claimed wherein the EPG is displayed by toggling an EPG button, wherein the EPG button is located on an interactive television and wherein the EPG button is located on a remote control unit.

Official Notice is taken it would have been well known to place a EPG button on a remote control or television to enable quick and easy access of the EPG. Therefore, it would have been obvious to one having ordinary skill in the art at time the invention was made to modify Klosterman to include the claimed limitation for the benefit of quick and easy access of the EPG.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis et al (US 2004/0117831) – Interactive TV program guide

Matthews, III et al. (6,025,837) – EPG with hyperlinks


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs  
6/23/05



VIVEK SRIVASTAVA  
PRIMARY EXAMINER